

A closed meeting will be held on Friday, February 14, 1997, at 10:00 a.m.

Commissioners, Counsel to the Commission, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as deputy officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Friday, February 14, 1997, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Regulatory matter bearing enforcement implications.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: February 7, 1997.

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-38242; File No. SR-MBSCC-96-06]

Self-Regulatory Organizations; MBS Clearing Corporation; Order Approving a Proposed Rule Change Relating to the Satisfaction of Participants Fund Deposit Requirements

February 5, 1997.

On October 7, 1996, MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-MBSCC-96-06) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") to eliminate the depository receipt as an acceptable form of collateral to satisfy

its participants fund deposit requirements.¹ Notice of the proposal was published in the Federal Register on December 12, 1996.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

MBSCC presently requires each of its participants to pledge or to provide collateral to MBSCC to satisfy MBSCC's participants fund deposit requirements.³ These deposits form a nonmutualized pool of collateral that is designed to reflect each participant's aggregate projected obligations to its counterparties and to MBSCC. MBSCC currently accepts cash, certain securities, and letters of credit issued by an approved issuer as collateral in satisfaction of its participants' deposit obligations. Previously, MBSCC's participants that used securities to satisfy their deposit requirements were required only to provide evidence of the pledge of securities to MBSCC by using a depository receipt; however, participants were not required to effect a book-entry transfer of such securities to an MBSCC account.⁴ The rule change eliminates the use of the depository receipt and instead requires participants that choose to use securities to satisfy their participants deposit requirements to deliver the securities by book-entry to an MBSCC account at an entity approved by MBSCC. In connection with this rule change, MBSCC also will be responsible for the payment of any fees associated with the establishment of a pledge account at a trust company approved by MBSCC's board of directors for use in connection with the book-entry method.

II. Discussion

Section 17A(b)(3)(F)⁵ of the Act requires that the rules of a clearing

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 38021 (December 5, 1996), 61 FR 65424.

³ For a complete description of the participants fund, refer to Securities Exchange Act Release Nos. 37294 (June 10, 1996), 61 FR 30268 [File No. SR-MBSCC-96-01] (notice of filing of proposed rule change) and 37512 (August 1, 1996), 61 FR 41437 [File No. SR-MBSCC-96-01] (order approving proposing rule change).

⁴ A depository receipt evidences the pledge of specified securities held by a custodian for the account of a pledgee. MBSCC advised the Commission that as of October 1996, the year to date average daily dollar value of the securities pledged to MBSCC through the use of depository receipts was \$1.05 billion.

⁵ 15 U.S.C. 78q-1(b)(3)(F).

agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that MBSCC's proposed rule change is consistent with MBSCC's obligations under Section 17A of the Act. The replacement of depository receipts with the book-entry method should reduce the risks associated with the use of depository receipts.⁶ The exclusive use of book-entry method as a means for participants to pledge securities to MBSCC as participants fund collateral should enhance MBSCC's ability to access the collateral in the event of a participant default. This should enable MBSCC to better fulfill its obligation under the Act to assure the safeguarding of securities and funds which are in its custody or control. Furthermore, because MBSCC will be responsible for all fees associated with the establishment of the pledge account, the rule change should help reduce any burdens on MBSCC's participants that result from the elimination of depository receipts as an acceptable form of participants fund deposit.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-MBSCC-96-06) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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⁶ MBSCC has stated that the use of the depository receipt presents certain risks to MBSCC, including: (1) Forgery, (2) unauthorized individuals executing on behalf of the participant or the custodian, (3) improper segregation of the pledged securities from other securities, (4) unauthorized releases of the pledged securities, and (5) the possibility that the custodian will not release the securities to MBSCC upon MBSCC's proper demand for such a release.

⁷ 17 CFR 200.30-3(a)(12).